

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
September 7, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Bigelow, Spain, Forman, Kenny

STAFF ATTENDING: Ginsberg, Keating

Mr. Damanti read the first agenda item:

Special Permit Application #221-D, Cellco Partnership d/b/a Verizon Wireless, 4 Tower Drive
Verizon Wireless request for Zoning Permit to install telecommunications antennas.

Mr. Keating outlined the changes between the plans approved by the Commission, and those submitted as part of the Zoning and Building Permit applications. He said that the side wall and peak are not the same. He said that Verizon Wireless had sent a letter dated July 30, 2004 (which was in response to Mr. Keating's July 27th letter), noting that these changes were for structural reasons. After some discussion, Commission members agreed that they will require written certification from an engineer, explaining the proposed changes and the structural reasons for those changes. Mr. Spain noted that they must comply with great precision to what they represented before the Commission at the public hearing, and what was specifically approved. Commission members agreed with Mr. Spain.

The Commission agreed with Mr. Bigelow's suggestion that there is also a need for the property owner, Aquarion Water Company, to "sign-off" on the proposed construction. They agreed that there will still be likely problems in painting the cap to match the existing tower, as Sprint is now having difficulties matching the color, and have been working on the situation for months. The Commission unanimously agreed that a Certificate of Completion cannot be issued for Verizon Wireless antennas until the painting is completed. Verizon must coordinate to ensure that it will be painted properly.

Subdivision Application #605, Graham & Bill, LLC, West Avenue
Request for additional time to file conservation easement and mylar.

Commission members were apprised of the August 24, 2004 letter from Attorney Robert Maslan requesting additional time to file the final documents and map. Mr. Ginsberg said that Town Counsel is now in the process of reviewing the conservation easement. The Commission then unanimously granted until February 14, 2005 to prepare and file the final easement and mylar for this project.

Subdivision Application #604, Arnold subdivision, Phillips Lane.
Request for additional time to file conservation easement and mylar.

Mr. Ginsberg explained the September 2, 2004 request from Attorney Roger Pearson. He said that he is assisting Mr. Pearson on the final Conservation Easement, Open Space Declaration and final mylar, all of which will be sent to Town Counsel for review. Mr. Ginsberg expects that three months will be

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sufficient to finalize the project. The Commission then granted an extension until December 1, 2004 to prepare and file the final easement, open space declaration and mylar.

Mr. Damanti then noted that the Commission received a number of draft resolutions in their packets on Friday, and read them over the weekend. He also said that he did not attend the public hearing on July 27th, but read the draft minutes and listened to the audiotapes. Mr. Bigelow made a motion to waive the reading aloud of the draft resolutions. That motion was seconded by Mr. Kenny and unanimously approved. Mr. Damanti then read the following agenda item:

Coastal Site Plan Review #194, Flood Damage Prevention Application #6-A, Land Filling & Regrading Application #120, Robert & Debra Lee, 8 North Road. Proposing to raze the existing residence and construct a new residence and associated septic system and perform related site development activities within regulated areas. The subject property is located on the southeast side of North Road, approximately 410 feet north of its intersection with Butler's Island Road, and is shown on Tax Assessor's Map #67 as Lot #74, R-1 Zone. *DECISION DEADLINE: SEPTEMBER 16, 2004.*

Commission members noted that they cannot approve finished space in the basement at this time, because it is in the flood zone. However, they will approve the remainder of the application. Mr. Spain and Mr. Bigelow explained that they have listened on audiotape to portions of the public hearing that they could not attend. Mr. Bigelow made a motion to adopt the resolution. That motion was seconded by Ms. Forman and approved by a vote of 5-0. The resolution read as follows:

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ADOPTED RESOLUTION
September 7, 2004**

Application Number: Coastal Site Plan Review #194
Flood Damage Prevention Application #6-A
Land Filling & Regrading Application #120

Street Address of Subject Property: 8 North Road
Tax Assessor's Map #67 Lot #74

Name and Address of Property Owner: Robert & Debra Lee
4 Homewood Lane
Darien, CT 06820

Name and Address of Applicant and
Applicant's Representative: Wilder G. Gleason, Esq.
Gleason Hill & Ambrette, LLC
23 Old King's Highway South, PO Box 1267
Darien, CT 06820

Activity Being Applied For: Proposing to raze the existing residence and construct a new residence and associated septic system and perform related site development activities within regulated areas.

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Property Location: The subject property is located on the southeast side of North Road, approximately 410 feet north of its intersection with Butler's Island Road.

Zone: R-1

Date of Public Hearing: May 25, 2004 continued to June 22, 2004 continued to July 13, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 13 & 20, 2004; June 10 & 17, 2004
July 1 & 8, 2004

Newspaper: Darien News-Review

Date of Action: September 7, 2004

Action: GRANTED WITH STIPULATIONS
IN PART AND DENIED IN PART

Scheduled Date of Publication of Action:
September 16, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The request is to raze the existing residence and construct a new five-bedroom residence and associated septic system and perform related site development activities within regulated areas.
2. The Environmental Protection Commission approved this project on July 7, 2004 as part of EPC #41-2004. That approval is hereby incorporated by reference.
3. The applicant has submitted a plan for the basement shown on Drawing #A-01, and an alternative plan for the basement, showing the basement use as unfinished and for storage only (Shown on Drawing #A-01.1). The basement plans reflect flood venting, and a July 8, 2004 memorandum to that effect was certified by the architect and submitted for the record. Currently, the property is within the flood zone, and the applicant has stated that they will pursue a Letter of Map Revision with FEMA to modify the flood line for this property based

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upon fill. If the flood line is changed, the applicant may return to the Planning and Zoning Commission for any plans to finish portions of the basement.

4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
6. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
8. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
9. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
10. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
11. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.
12. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #194, Flood Damage Prevention Application #6-A and Land Filling and Regrading Application #120 are hereby modified and granted in part and denied in part subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and regrading shall be in accordance with the plans entitled:

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- Proposed Conditions Topographic & Zoning Location Survey 8 North Road prepared for Robert Lee Debra W. Lee, by William W. Seymour & Associates, scale 1"=20', dated April 15, 2004 and last revised July 7, 2004.
 - Lee Residence Site Plan, by Stearns & Wheler, scale 1"=20', Sheet 1 last revised 7/8/04.
 - The Lee Residence, by Robert A. Cardello Architects, LLC, Drawing #: C-1; S-01; A02 through A06; A1.1 through A1.2; A-01.1. All drawings last revised May 27, 2004.
- B. The Basement Plan shown as Drawing # A-01 is NOT APPROVED, as the Commission cannot approve finished habitable space that is not at least one foot above the flood level, which is currently elevation 12.0. Any future desire to finish a portion of the basement can be resubmitted to the Planning & Zoning Commission for administrative review and action once a Letter of Map Revision has been approved by FEMA or a variance from the Zoning Board of Appeals has been obtained.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- E. A final "as-built" topographic survey is hereby required to certify that the septic system, stonewall, regrading, walkway and other site improvements adjacent to the coastal recourses and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work has been properly completed.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Health Department.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation and completion of the approved plans within one year of this action (by September 6, 2005). This may be extended as per Section 815 and 829f.

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All provisions and details of the plan, as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Mr. Damanti read the next agenda item:

Special Permit Application #60-F, Country Club of Darien, 300 Mansfield Avenue. Proposing to create a pool pavilion and terrace; renovate and enlarge the clubhouse kitchen; and perform related site development activities. The subject property is located on the east side of Mansfield Avenue, approximately 1,250 feet south of its intersection with Middlesex Road, and is shown on Tax Assessor's Map #5 as Lot #40, R-2 Zone. *DECISION DEADLINE: SEPTEMBER 16, 2004.*

Mr. Damanti recused himself from the discussion on this application as he shares office space with the applicant's representative, Mr. Pierson. Mr. Spain then chaired the meeting. He said that he was not present at one of the meetings on this matter, but had familiarized himself with it by listening to the audiotape. A motion was made by Ms. Forman and seconded by Mr. Bigelow to adopt the resolution with minor amendments to clarify that portions of the application had been withdrawn. The Commission approved the resolution by a vote of 4-0, with Mr. Damanti abstaining. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2004**

Application Number: Special Permit Application #60-F

Tax Assessor's Map #5 Lot #40

Name and Address of Property Owner: Country Club of Darien
And Applicant: 300 Mansfield Avenue
Darien, CT 06820

Name and Address of Applicant's Representative: Stephen Pierson, Esq.
Pierson Law Firm
777 Boston Post Road, 3rd floor
PO Box 1221
Darien, CT 06820

Activity Being Applied For: Proposing to 1) reconstruct the "halfway house"; 2) construct new staff housing; 3) create a pool pavilion and terrace; 4) renovate and enlarge the clubhouse kitchen; 5) construct maintenance sheds; and perform related site development activities. Items #1, #2 and #5 were withdrawn during the application process.

Property Location: The subject property is located on the east side of Mansfield Avenue, approximately 1,250 feet south of its intersection with Middlesex Road.

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Zone: R-2 Zone

Date of Public Hearing: May 25, 2004 continued to July 13, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 13 & 20, 2004
July 1 & 8, 2004

Newspaper: Darien News-Review

Date of Action: September 7, 2004

Action: WITHDRAWN IN PART AND
REMAINDER GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: September 16, 2004
Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application, as originally submitted, consisted of five parts:
 - a. reconstruction of the "halfway house";
 - b. construction of new staff housing;
 - c. creation of a pool pavilion and terrace, and other changes in the swimming pool area;
 - d. renovation and enlargement of the clubhouse kitchen and other interior renovations to the existing clubhouse;
 - e. construction of maintenance sheds.
2. In a letter dated June 30, 2004, and during the public hearing on this matter on July 13, 2004, three parts of the application were withdrawn. They were: reconstruction of the "halfway house"; construction of new staff housing; and construction of maintenance sheds. The Commission notes that applications for any or all of those activities in the future shall require a subsequent Special Permit application. Thus, the only requests pending before the Commission are for the creation of a pool pavilion and terrace; and renovation and enlargement of the clubhouse kitchen and other interior renovations to the existing clubhouse.

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3. The changes to the pool and the pool pavilion area include resurfacing of the pool shell; construction of a poolside octagon pavilion; a 426+/- square foot arts and crafts pavilion; new 329+/- square foot pump house structure; construction of a fieldstone clad retaining wall; construction of a 426+/- square foot children's pool pavilion; and an extension of the children's pool deck with play area. These are shown on Drawing Numbers PZ-0.1 through PZ-0.4, all last revised 03/11/04, and in the Site Plan for Pool Area. There are no kitchen or cooking facilities in the pavilions or pool area. The modifications of the driveway shown on Drawing Number SP-1 of the plans are not part of this proposal, as they have not yet received approval from the Environmental Protection Commission.
4. The renovation and enlargement of the central kitchen includes an expansion of the existing clubhouse building as well as other alterations within the existing clubhouse. As presented and shown on the plans (Drawing Number PZ-0.1), the basement will be used for storage only—no cooking or food preparation is proposed or approved. The total additional building area as part of this construction is approximately 8,623 square feet. These are shown on Drawing Numbers PZ-0.1 through PZ-0.4, all last revised 4/16/04.
5. As noted by the applicant at the public hearing on this matter, no change in membership or general activities at the club is proposed as part of this application. Use of the clubhouse, clubhouse kitchen, pool, and pool pavilion area will be generally no greater than the existing use. Any changes to the nature of these uses would require an amendment of the existing Special Permit (review and approval by the Planning and Zoning Commission).
6. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
7. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit #60-F is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. As noted, this application was modified at the July 13th public hearing. Three aspects of the original application, the reconstruction of the "halfway house," construction of staff housing, and construction of new maintenance sheds/garages, have been withdrawn, and are therefore, not approved.
- B. Work on the pool, pool area, and pavilion area shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Site Plan For Pool Area, by Edward J. Frattaroli, Inc., scale 1"=20', dated April 16, 2004, Drawing No. SC-1.
 - General: Pool Area Key Plan, by Culpen & Woods Architects, dated March 10, 2004 and last revised 3/11/2004, Drawing Number PZ-0.1.
 - Construction: West Façade and Sections, by Culpen & Woods Architects, scale 1/8"=1'-0", dated March 10, 2004 and last revised 3/11/2004, Drawing Number PZ-0.2.

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- General Plan, Section & Elevations, by Culpen & Woods Architects, dated March 10, 2004 and last revised 3/11/2004, Drawing Number PZ-0.3.
 - General: Awards/Arts & Crafts Pavilion, by Culpen & Woods Architects, scale as noted, dated March 10, 2004 and last revised 3/11/2004, Drawing Number PZ-0.4.
- Main Kitchen and Office Renovation shall be in accordance with the following plans submitted to and approved by the Commission:

- Country Club of Darien Main Kitchen and Office Renovation, General: Basement Floor Plans, by Culpen & Woods Architects, dated April 15, 2004, scale 1/8"=1'-0", and last revised 4/16/2004, Drawing Number PZ-0.1.
- Country Club of Darien Main Kitchen and Office Renovation, General: First Floor Plan, by Culpen & Woods Architects, dated April 15, 2004, scale 1/8"=1'-0", and last revised 4/16/2004, Drawing Number PZ-0.2.
- Country Club of Darien Main Kitchen and Office Renovation, General: Second Floor Plan, by Culpen & Woods Architects, dated April 15, 2004, scale 1/8"=1'-0", and last revised 4/16/2004, Drawing Number PZ-0.3.
- Country Club of Darien Main Kitchen and Office Renovation, General: Building Elevations, by Culpen & Woods Architects, dated April 15, 2004, scale 1/8"=1'-0", and last revised 4/16/2004, Drawing Number PZ-0.4.

- C. As noted by the applicant, this application proposes no change or increase in the uses or membership in the Country Club of Darien. Any such proposals would require an amendment of the Club's Special Permit, and action by the Planning and Zoning Commission.
- D. During construction, the applicant shall utilize any sediment and erosion control measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. The granting of this Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final approval for food service plans from the Darien Health Department for the proposed changes to the clubhouse kitchen.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (September 6, 2005).

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents

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by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Mr. Damanti then resumed chairing the meeting, and read the next agenda item:

Coastal Site Plan Review #138-C, Flood Damage Prevention Application #140-C, Janice A. Mahaney, 26 Shipway Road. Proposing to construct a new single-family residence, including porch and garage and perform related site development activities within regulated areas. Subject property is located on the north side of Shipway Road approximately 300 feet east of its intersection with Plymouth Road, and is shown on Tax Assessor's Map #57 as Lot #43, R-1 Zone.

Mrs. Forman made a motion to adopt the resolution as written. That motion was seconded by Mr. Spain, and approved by a vote of 4-0. Mr. Kenny abstained, as he was not at the public hearing on this matter. The resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2004**

Application Number: Coastal Site Plan Review #138-C
Flood Damage Prevention Application #140-C

Tax Assessor's Map #57 Lot #43

Name and Address of Property Owner: Janice A. Mahaney
26 Shipway Road
Darien, CT 06820

Name and Address of Applicant's Representative: Joseph J. Rucci, Jr., Esq.
And Applicant: Rucci, Burnham, Carta & Edelberg, LLP
PO Box 1107
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to construct a new single-family residence, including porch and garage and perform related site development activities within regulated areas.

Property Location: Subject property is located on the north side of Shipway Road approximately 300 feet east of its intersection with Plymouth Road.

Zone: R-1

Date of Public Hearing: July 27, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

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Publication of Hearing Notices

Dates: July 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: September 7, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
September 16, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to construct a new single-family residence, including porch and garage and perform related site development activities within regulated areas. The proposed residence will tie into the Town sanitary sewer system. The subject property is 2.11+/- acres in an R-1 Zone. All of the proposed work is within 100 feet of Mean High Water, and a portion of the property is within flood zone AE elevation 13.
2. There were several prior approvals for this site, including Coastal Site Plan Review #138-A and Flood Damage Prevention Application #140-A, approved by the Planning and Zoning Commission on January 4, 2000, and Coastal Site Plan Review #138-B and Flood Damage Prevention Application #140-B, approved by the Planning and Zoning Commission on June 26, 2001. This proposal locates the residence further from Mean High Water than those previous requests. Those approvals have all expired, and the property is now vacant.
3. Although both of those approvals included proposals for an in-ground swimming pool, there is no pool proposed as part of this application. Any future request for a pool will require further review and action by the Planning and Zoning Commission, and possibly other local land use boards as well.
4. Variances were granted by the Zoning Board of Appeals (Calendar #43-2004) in July 2004, that allowed the proposed residence to be closer to the property line than the Zoning Regulations permit. The EPC granted approval on July 21, 2004 (EPC 50-2004). Those approvals are hereby incorporated by reference.

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5. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
6. The proposed activity will have no adverse impacts on flooding and, therefore, this proposal is consistent with the need to minimize flood damage.
7. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
8. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
9. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #138-C and Flood Damage Prevention Application #140-C are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission. These include:
 - “Mahaney Residence, Darien, CT”, by Neil Hauck Architects, Sheets SP-1, A-1 through A-6 (Sheets SP-1 and A-4 through A-6 originally dated 3/25/04), Sheets A-1 originally dated 2/25/04, Sheets A-2 & A-3 originally dated 3/3/04, all Sheets last revised 5/10/04.
 - Erosion Control Plan, by Stearns & Wheler, dated 5/10/2004, Sheet 4, and Erosion Control, by Stearns & Wheler, dated 5/10/2004, Sheet 4.
- B. It was noted during the public hearing on this matter that the existing driveway encroaches slightly onto the adjacent property to the south. The Commission strongly recommends that the driveway be relocated be to entirely on the applicant’s property, or that it be formalized via a driveway easement.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. A final “as-built” survey is hereby required to certify that house construction near the coastal recourses and/or within the flood hazard area are all in compliance with the approved plans. In

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addition, a Professional Engineer shall certify in writing that the work has been properly completed in accordance with the approved plans.

- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This will include, but not be limited to, approval from the Sewer Department to tie into the Town Sewer system.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (September 6, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Coastal Site Plan Review #113-A, Flood Damage Prevention Application #101-A, Land Filling & Regrading Application #125, Darien Park & Recreation Commission, Pear Tree Point Park Boat Launch Renovation. Proposing to renovate and reconfigure the boat launch ramp, to remove existing floating dock and ramp and construct new floating dock and handicap accessible ramp; and lower the existing seawall and backfill and regrade the area behind the seawall; and perform related site development activities within regulated areas. The subject property is located on the west side of Pear Tree Point Road, approximately 650 feet south of its intersection with Crane Road, and is shown on Tax Assessor's Map #60 as Lots #43, #44 and #45 in the R-1 Zone.
MANDATORY REFERRAL REPORT WAS ISSUED ON 7/27/2004.

Mr. Bigelow made a motion to adopt the resolution as written. That motion was seconded by Ms. Forman and approved by a vote of 4-0. Mr. Kenny abstained, as he was not at the public hearing on this matter. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2004**

Application Number: Coastal Site Plan Review #113-A
Flood Damage Prevention Application #101-A
Land Filling & Regrading Application #125

Street Address: Pear Tree Point Park
Tax Assessor's Map #60 Lots #43, #44, & #45

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Name and Address of Property Owner: Town of Darien
2 Renshaw Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Susan Swiatek
Darien Park & Recreation Commission
2 Renshaw Road
Darien, CT 06820

Activity Being Applied For: Proposing to renovate and reconfigure the boat launch ramp, to remove existing floating dock and ramp and construct new floating dock and handicap accessible ramp; and lower the existing seawall and backfill and regrade the area behind the seawall; and perform related site development activities within regulated areas.

Property Location: . The subject property is located on the west side of Pear Tree Point Road, approximately 650 feet south of its intersection with Crane Road, and is shown on Assessor's Map #60 as Lots #43, #44 and #45 in the R-1 Zone.

Zone: R-1

Date of Public Hearing: July 27, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: July 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: September 7, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
September 16, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, and 850 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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Following careful review of the submitted application materials and related analyses, the Commission finds:

1. Proposing to renovate and reconfigure the boat launch ramp, to remove existing floating dock and ramp and construct new floating dock and handicap accessible ramp; and lower the existing seawall and backfill and regrade the area behind the seawall; and perform related site development activities within regulated areas. The ramp will be extended from 112 feet to 130 feet. The use will be the same. The existing concrete sidewalk will be removed as part of this project. There is no change to the existing lighting in the ramp area.
2. A related Mandatory Referral report under Section 8-24 of the Connecticut General Statutes was issued on July 27, 2004 for this project.
3. The State of Connecticut DEP and the Army Corps of Engineers granted approval for this project. Those approvals were submitted for the record in this matter, and are hereby incorporated by reference.
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
6. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
8. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
9. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
10. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
11. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

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NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #113-A, Flood Damage Prevention Application #101-A and Land Filling and Regrading Application #125 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and filling and regrading shall be in accordance with the plans entitled:
 - a. Pear Tree Point Beach Boat Launch Renovations, Project Notes, Drawing No. 203077-4-02, Existing Site Plan and General Plan, Drawing No. 203077-4-03, Sections, Drawing No. 203077-4-04, Sections and Details, Drawing No. 203077-4-05, by Ocean and Coastal Consultants, Inc., dated 2/4/04.
 - b. Proposed Installation of New Linear Float with Anchor Piles and Remove Exist. Ramp & Float in the Goodwives River, by Ocean and Coastal Consultants, Inc., dated 9/17/03 and last revised 12/18/03 (7 sheets).
 - c. Proposed Retain & Maintain Existing Seawall, Riprap Bank and Rehabilitate Boat Launch Ramp in the Goodwives River, by Ocean and Coastal Consultants, Inc., dated 9/17/03 and last revised 12/16/03 (8 sheets).
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- D. A final "as-built" survey is hereby required to certify that the site improvements adjacent to the coastal recourses and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work has been properly completed in accordance with the approved plans.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation and completion of the

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approved plans for site work, and regrading within one year of this action (by September 6, 2005). This may be extended as per Section 815 and 829f.

All provisions and details of the plan, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Coastal Site Plan Review #195, Flood Damage Prevention Application #211, Land Filling & Regrading Application #126, Paul & Kathy Herdt Charron, 44 Contentment Island Road.

Proposing to demolish existing residence and construct a new single-family residence, swimming pool, and septic system and perform related site development activities within regulated areas. The subject property is located at the terminus of Contentment Island Road, and is shown on Tax Assessor's Map #68 as Lot #24, in the R-1 Zone.

Mr. Damanti noted that the subject property is beyond the terminus of Contentment Island Road, and had no road frontage. Ms. Forman made a motion to adopt the resolution as written. That motion was seconded by Mr. Spain, and approved by a vote of 4-0. Mr. Kenny abstained, as he was not at the public hearing on this matter. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2004**

Application Number: Coastal Site Plan Review #195
Flood Damage Prevention Application #211
Land Filling & Regrading Application #126

Street Address: 44 Contentment Island Road
Tax Assessor's Map #68 Lot #24

Name and Address of Property Owner: Paul & Kathy Charron
44 Contentment Island Road
Darien, CT 06820

Name and Address of Applicant: Joseph J. Rucci, Jr., Esq.
Applicant's Representative: Rucci Burnham Carta & Edelberg
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to demolish existing residence and construct a new single-family residence, swimming pool, and septic system and perform related site development activities within regulated areas.

Property Location: The subject property is located at the terminus of Contentment Island Road.

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Zone: R-1

Date of Public Hearing: July 27, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: July 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: September 7, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
September 16, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The request is to demolish existing residence and construct a new single-family residence, swimming pool, and septic system and perform related site development activities within regulated areas. The existing house has seven bedrooms and is proposed to be demolished. The new residence will have six bedrooms and a new septic system.
2. In order to construct the septic system, approximately 1,700 cubic yards of fill will be brought to the property. The septic system will be constructed near the end of the project, and the applicant intends to perform that work in the winter of 2005-2006. They expect to need up to eighteen months to implement the entire project.
3. At the public hearing, it was noted that the first floor of the new residence will be constructed at elevation 14.0. This complies with the flood regulations, as all new finished space must be constructed at least one foot above elevation 12.0, which is the mapped zone, and also at least one foot above elevation 13.0, which is the flood elevation as determined by the applicant's engineer, based upon a more detailed study of the specific site conditions.

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4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
6. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
8. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
9. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
10. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
11. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.
12. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #195, Flood Damage Prevention Application #211 and Land Filling and Regrading Application #126 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and filling and regrading shall be in accordance with the plans reviewed by the Commission entitled:
 - a. Site Plan, Charron Residence 44 Contentment Island Road, by Stearns & Wheler, last dated 7/27/04, Sheet 1.
 - b. Coastal Fringe Planting, Paul and Kathy Charron Property, by Stearns & Wheler, dated June 2004, Sheet 4.
 - c. Erosion Control Plan, Paul and Kathy Charron Property, by Stearns & Wheler, dated June 2004, Sheet 5.

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- d. New Residence prepared for: Paul & Kathy Charron, 44 Contentment Island Road, by Daniel Conlon Architects, dated 6.15.04, Sheets A1 through A8.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- D. A final "as-built" survey is hereby required to certify that the site improvements adjacent to the coastal recourses and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work has been properly completed.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Health Department.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 815 of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plans for site work, regrading, and septic system installation within eighteen (18 months) of this action (by March 6, 2005). This time period will allow for time for fill for the septic system to be brought to the site in winter, rather than in the summer. This may be extended as per Section 815.

All provisions and details of the plan, as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Coastal Site Plan Review #196, Flood Damage Prevention Application #212, Paul & Susan Tierney, 17 Butler's Island Road. Proposing to construct a dock consisting of a fixed pile supported pier, access ramp, and wooden float with pilings and to perform related site development activities within regulated areas. Subject property is located on the east side of Butler's Island Road

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approximately 265 feet east of its intersection with North Road, and is shown on Tax Assessor's Map #67 as Lot #76, R-1 Zone.

Mr. Bigelow made a motion to adopt the resolution as written. That motion was seconded by Mr. Spain. The vote was 4-0 in favor of adopting the resolution. Mr. Kenny abstained, as he was not at the public hearing on this matter. The resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2004**

Application Number: Coastal Site Plan Review #196
Flood Damage Prevention Application #212

Tax Assessor's Map #67 Lot #76
Street Address: 17 Butler's Island Road

Name and Address of Property Owner:
And Applicant: Paul & Susan Tierney
17 Butler's Island Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to construct a dock consisting of a fixed pile supported pier, access ramp, and wooden float with pilings and to perform related site development activities within regulated areas.

Property Location: Subject property is located on the east side of Butler's Island Road approximately 265 feet east of its intersection with North Road.

Zone: R-1

Date of Public Hearing: July 27, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: July 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: September 7, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
September 16, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

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- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application proposes to construct a private boat dock consisting of a 4' x 104' fixed pile supported pier, 3' x 36' aluminum access ramp, and an 8' x 20' wooden float with two support pilings and to perform related site development activities within regulated areas.
2. Approval for this project was granted by the State of Connecticut Department of Environmental Protection (DEP). That approval is hereby incorporated by reference.
3. In accordance with the submitted information, the proposed activities will have no adverse impacts on flooding on adjacent properties.
4. The Commission finds that the proposed additions and alterations to the existing residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
5. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #196 and Flood Damage Prevention Application #212 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. Work shall be in accordance with the plans entitled:
- Existing and Proposed Conditions Map for Proposed Ramp, Float, and Wood Accessway and Seawall and Groin Permitting Prepared for Paul E. Tierney, Jr. Susan E. Tierney, 17 Butler's Island Road, by William W. Seymour & Associates, last revised December 19, 2003.
 - Existing and Proposed Cross Section Map for Proposed Ramp, Float and Wood Accessway Prepared for Paul E. Tierney, Jr. Susan E. Tierney, 17 Butler's Island Road, by William W. Seymour & Associates, last revised August 25, 2003.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- E. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (September 6, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Mr. Damanti read the next agenda item:

Land Filling & Regrading Application #122, Mark & Patricia Dailey, 59 Holly Lane. Proposing to regrade rear yard and to install associated stone retaining wall and plantings and perform related site development activities. The subject property is located on the north side of Holly Lane, approximately 200 feet west of its intersection with Noroton Avenue, and is shown on Tax Assessor's Map #9 as Lot #133, R-1 Zone.

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Mr. Bigelow made a motion to adopt the draft resolution as written. Mr. Spain seconded that motion. The Commission then voted 4-0 to adopt the resolution as written, with Mr. Kenny abstaining, since he was not at the public hearing on this matter.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2004**

Application Number: Land Filling and Regrading Application #122

Tax Assessor's Map #9 Lot #133

Name and Address of Property Owner: Mark & Patricia Dailey
59 Holly Lane
Darien, CT 06820

Name and Address of Applicant And Applicant's representative: Lance Zimmerman
14 Cliffview Drive
Norwalk, CT 06850

Activity Being Applied For: Proposing to regrade rear yard and to install associated stone retaining wall and plantings and perform related site development activities.

Property Location: The subject property is located on the north side of Holly Lane, approximately 200 feet west of its intersection with Noroton Avenue.

Zone: R-1 Zone

Date of Public Hearing: July 27, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: July 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: September 7, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
September 16, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to regrade rear yard and to install associated stone retaining wall and plantings and perform related site development activities. The purpose is to create a level area in the back yard. The hemlock hedge along the west property line is proposed to remain as part of this application.
2. The Environmental Protection Commission approved application EPC 32-2004 for this project on June 17, 2004. That approval is hereby incorporated by reference.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling Application #122 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading and wall construction shall be in accordance with the plans submitted to the Commission entitled:
 - Regrading and Wall Construction Plan--by Lance Zimmerman, A.I.A., last revised 6-10-04, overlaid on the Zoning Location & Topographic Survey of #59 Holly Lane by William W. Seymour & Associates, dated April 11, 2001 and last revised June 2, 2003;
 - Drainage Plan--Site Drainage Plan 59 Holly Lane, Connecticut, prepared for Mark S. and Patricia L. Dailey, Darien, Connecticut," Drawing No. SE1, by McChord Engineering Associates, Inc., dated May 17, 2004, last revised 5-17-2004.
 - Planting Plan--Dailey Residence, by Pine Meadow Gardens, undated, received in the Planning & Zoning office June 18, 2004.
- B. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- C. Sediment and erosion controls shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

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- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (September 6, 2005). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Mr. Damanti read the next agenda item:

Flood Damage Prevention Application #53-C, Land Filling & Regrading Application #124, Marcia Voges, 5 Fresh Meadows Lane. Proposing to remove existing retaining wall, construct a new retaining wall along rear of property, and backfill behind that new wall and perform related site development activities. Subject property is located on the east side of Fresh Meadows Lane approximately 300 feet north of its intersection with Middlesex Road, and is shown on Tax Assessor's Map #25 as Lot #92-2, R-1/3 Zone.

Commission members discussed the fact that the neighbor at 7 Fresh Meadows will likely be coming before them soon for a related application. Ms. Forman made a motion to approve the draft resolution as written. That motion was seconded by Mr. Spain and approved by a vote of 4-0. Mr. Kenny abstained, as he was not at the public hearing on this matter.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2004**

Application Number: Flood Damage Prevention Application #53-C
Land Filling & Regrading Application #124

Subject Property: 5 Fresh Meadows Lane
Tax Assessor's Map #25 Lot #92-2

Name and Address of Applicant: Marcia Voges
And Property Owner 5 Fresh Meadows Lane
Darien, CT 06820

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Activity Being Applied For: Proposing to remove existing retaining wall, construct a new retaining wall along rear of property, and backfill behind that new wall and perform related site development activities within a regulated area.

Property Location: Subject property is located on the east side of Fresh Meadows Lane approximately 300 feet north of its intersection with Middlesex Road.

Zone: R-1/3

Date of Public Hearing: July 27, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: July 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: September 7, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
September 16, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is to remove the existing retaining wall, construct a new retaining wall along rear of property (the eastern property line), and backfill behind that new wall and perform related site development activities within a regulated area. This will enable the property owners to extend the back yard lawn area, and possibly construct a garage. All of the proposed fill will be located above the 100-year flood zone. There will be no weep holes in the wall, as it will be backfilled with stone. It is possible that this wall may tie into a wall on an adjoining property (the Horan/Stanley-Brown property to the north) sometime in the future.

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2. Within the Drainage Report, the engineer noted that the fill and retaining wall will not cause any impact on the elevation of the Noroton River. It was also noted that the development will not cause any impact on adjacent properties.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
5. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #53-C and Land Filling & Regrading Application #124 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The retaining wall construction and filling & regrading are shown on the plans submitted to the Commission entitled:
 1. Marcia H. S. Voges, 5 Fresh Meadows Lane, by Edward J. Frattaroli, Inc., scale 1"=20', dated 6/3/03 and last revised 6/17/04, Dwg. No. 1.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- D. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

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- F. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (September 6, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Mr. Damanti read the next agenda item:

Coastal Site Plan Review #110-C, Flood Damage Prevention Application #98-C, Eagle Nest, LLC, 33 Searles Road. Proposing to install a fence adjacent to the existing lagoon and perform related site development activities within regulated areas. Subject property is located on the east side of Searles Road approximately 200 feet north of its intersection with Tokeneke Beach Drive, and is shown on Tax Assessor's Map #67 as Lots #48 and #49, R-1 Zone.

Mr. Bigelow noted that the property fronts on the lagoon, and that is considered to be a liability concern by the property owner. Attorney Gleason explained at the public hearing that the owners do not wish to have their children or guests to fall into the water. Ms. Spain said that the fence along the lagoon was logical to him, and the other fence in question is to the left of the existing gate. That fence is somewhat shielded from the DiDonna house by an outcropping. Mr. Damanti noted that from a Coastal Site Plan Review standpoint, the only remaining question is whether the fence along the lagoon is within DEP jurisdiction. As for the Flood Damage Prevention aspects, he said that the nature of the existing fence along the lagoon will not build up water against it, as it is of mesh-type construction. Mr. Spain agreed that the type of fence needs to be considered, and that the black mesh fence will not impact private views, nor will it impact flooding or impede water flow. While it was acknowledged that Mr. DiDonna may have a view easement, such an easement would not be within the Commission's jurisdiction to enforce. Staff was instructed to draft a resolution for consideration by the Commission at an upcoming meeting.

Approval of Minutes

The Commission then discussed the July 6, 2004 Public Hearing/General Meeting minutes. A minor change was proposed to page 5. On a motion by Mr. Kenny, seconded by Mr. Spain, the minutes were approved with that one change. The vote was 4-0, with Mr. Bigelow abstaining, as he was not at that meeting.

The July 13, 2004 Public Hearing/General Meeting minutes were then reviewed. Proposed changes were made to pages 1, 4, and 12. On a motion by Mr. Bigelow, seconded by Mr. Kenny, the Commission approved the minutes as modified. The vote was 4-0, with Mr. Spain abstaining, as he was not at the meeting.

The Commission then reviewed the July 27, 2004 Public Hearing/General Meeting minutes. A motion was made by Mr. Bigelow, seconded by Ms. Forman, to approve the minutes as written. That motion was approved by a vote of 5-0.

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Any Other Business (requires two-thirds vote of Commission)

Mr. Ginsberg noted that he had three items to discuss under “Other Business” - the Hart property on Morley Lane; a letter from Mr. Argenio and Ms. Cawthorn regarding 40 Old Farm Road; and meeting scheduling. Mr. Bigelow made a motion to go into other business to consider those three items. That motion was seconded by Mr. Spain, and unanimously approved.

1. Hart, Morley Lane.

Mr. Ginsberg and Mr. Keating explained the situation with the Hart construction on the Morley Lane “south lot”. They noted that some stairways, regrading and retaining walls are not per the plans approved as part of the Commission’s site-specific approval from 1995/96. Mr. Ginsberg and Mr. Keating asked the Commission whether they would like to review this matter at a General Meeting, or hold a public hearing. Mr. Damanti noted the significant litigation relative to this property, and said that he is not comfortable acting upon amendments without holding a public hearing. All Commission members agreed. The Commission made a strong suggestion to modify the property so that it is in full compliance with the approved plans. Mr. Ginsberg and Mr. Keating will relay this message to Mr. Hart and/or his attorney, Mr. Maslan.

2. Letter from Mr. Argenio and Ms. Cawthorn regarding 40 Old Farm Road.

Mr. Ginsberg read aloud the July 22, 2004 letter from Mr. Argenio and Ms. Cawthorn regarding the proposed driveway for 40 Old Farm Road. He explained that the Commission approved the driveway in January 2004, and that approval resulted in the settlement of litigation. Commission members recalled that approval, and asked Mr. Ginsberg to send a letter to Mr. Argenio and Ms. Cawthorn stating that they have received the letter and have considered their concerns. No other action was taken.

3. Upcoming Meeting Schedule.

Mr. Ginsberg explained that it may be preferable to meet on September 21st, rather than on September 14th as originally scheduled. This would allow staff more time to prepare materials for that meeting. Commission members agreed that having a Special meeting on the 21st may be best. Mr. Ginsberg will file the appropriate notices with the Town Clerk. Commission members stressed that they do not wish the Town Plan to fall behind schedule. They also agreed that having the draft chapters placed on a prominent spot on the Town web site is important, and they look forward to receiving public input on the draft chapters.

There being no other business the meeting was then adjourned at 9:45 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning and Zoning Director